

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 19TH FEBRUARY 2007 / 30TH MAGHA 1928

WP(C).No. 5303 of 2007(F)

PETITIONER:

**PRASANTHI CASHEW COMPANY,
REPRESENTED BY ITS PROPRIETOR,
B.MOHANA CHANDRAN NAIR, S/O.PADMANABHA PILLAI,
AGED 52 YEARS, RESIDING AT "HARI SREE",
KOCHUPILAMOOD, MUNDACKAL, KOLLAM.**

**BY ADV. SRI.RAJA VIJAYARAGHAVAN,
SRI.R.RENJITH.**

RESPONDENTS:

- 1. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY THE CHAIRMAN, K.S.E.B.,
THIRUVANANTHAPURAM.**
- 2. THE ASST.ENGINEER,
K.S.E.B., ELECTRICAL SECTION,
PERUMPUZHA, KOLLAM (DT).**
- 3. THE EXECUTIVE ENGINEER,
ELECTRICAL MAJOR SECTION, KILIKOLLUR,
KOLLAM.**

BY ADV. SRI. JOSE J. MATHEICKEL, S.C, KSEB.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19/02/2007,THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

K.BALAKRISHNAN NAIR, J.

WP(C).No.5303 of 2007-F

Dated this the 19th day of February, 2007.

JUDGMENT

The petitioner is engaged in purchasing, processing and export of processed cashew kernels. It is having SSI registration. It is running 15 factories, one of which is situated at Mampuzha near Kollam. The main activity is grading, roasting, salting and thereafter packing the same in tins. According to the petitioner, the activity carried on by the petitioner is an industrial activity and therefore the tariff applicable is LT IV. But, the K.S.E.B. took a unilateral decision to treat the petitioner's unit and similar units as coming under LT VII category, in 2003. It appears, some of the affected persons approached this court and those cases were disposed of by Ext.P5 common judgment directing the Electricity Commission to take a decision in the matter. The petitioner claims he moved the Government and obtained a stay of collection of electricity charges at the rate applicable to commercial establishments. Now, it has been served with Ext.P6 bill and ExtP7 notice claiming an amount of Rs. 5,89.010/- which is the arrear bill amounts from December 2003 to September, 2006, as per tariff LT VIIA. According to the petitioner, his unit is an industry and therefore it is entitled to get the

benefit of LT IV tariff.

2. The learned Standing Counsel, upon instruction, submitted that pursuant to Ext.P5 judgment, the matter was considered by the State Electricity Commission and it has held that the cashew packing units similar to that of the petitioner will come under LT VII category and therefore, the impugned bills have been served on the petitioner.

3. The learned counsel for the petitioner submits that the petitioner was not a party to the proceedings of the Electricity Commission and therefore the said decision will not bind him. The petitioner also has a case that the claim is barred by limitation. Under Section.....claim beyond 3 years cannot be collected. Ext.P6 has been issued on 10-1-2007. The oldest bill relates to December 2003 which is normally payable only in January, 2004. Therefore, the demand is not barred by limitation. Further, even on the admission of the petitioner that he has obtained stay from the Government and thereby disabled the K.S.E.B. from collecting the amount and therefore the claim is barred by limitation cannot be accepted. In view of the decision of the State Commission, I find no jurisdictional error in Ext.P6 or Ext.P7. Accordingly, the Writ Petition is dismissed. If the petitioner has got any statutory remedy, the right if any, of the

petitioner in this regard will not be affected by this judgment.

MS

K.BALAKRISHNAN NAIR,
JUDGE.